IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 10.10.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM

and

The Hon'ble Mr. Justice S.TAMILVANAN

Habeas Corpus Petition No.761 of 2006

Govindaraji ... Petitioner

Vs.

1.The State of Tamil Nadu,
rep. by its Secretary,
Prohibition and Excise Department,
Fort St. George, Chennai-9.

2.The District Magistrate and
District Collector,
Krishnagiri District,
Krishnagiri. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records pertaining to the detention order passed against the petitioner by the second respondent herein in S.C.No.11/2006 dt. 17.5.2006 and quash the same and direct the respondents to produce the body or person of the petitioner before this Court and set him at liberty from Central Prison, Salem.

For Petitioner : Mr.P.M.Duraiswamy
For Respondents : Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

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O R D E R

(Order of the Court was made by P.SATHASIVAM,J.)

The petitioner by name Govindaraji, who is detained as a ''Goonda" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 17.05.2006, challenges the

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same in this Petition.

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there is enormous delay in disposal of the representation of the detenu, which vitiates the ultimate order of detention. With reference to the above claim, learned Additional Public Prosecutor has placed the details, which show that the representation of the detenu dated 05.07.2006 was received by the Government on 18.07.2006 and the remarks were called for on 19.07.2006 and the representation of the detenu was received from the Government on 19.07.2006 and the parawar remarks were called for from the Sponsoring authority on the same day i.e. on 19.07.2006 and the remarks were received from the sponsoring authority on 28.07.2006. Thereafter, the remarks were received by the Government on 07.08.2006 and the File was submitted on 08.08.2006 and the same was dealt with by the Under Secretary and the Deputy Secretary on 08.08.2006 and finally, the Minister for Prohibition and Excise passed orders on the same day i.e. 08.08.2006. The rejection letter was prepared on 09.08.2006 and the same was sent to the detenu on 10.08.2006 and served to him on 14.08.2006. As rightly pointed out by the learned counsel for the petitioner, though parawar remarks were called for from the sponsoring authority on 19.07.2006, the remarks were received from the sponsoring authority by the Collectorate only on 28.07.2006 and there is no explanation at all for sending the remarks to the Collectorate belatedly. In the absence of any explanation by the person concerned even after excluding the intervening holidays, we are of the view that the time taken for sending the remarks to the Collectorate is on the higher side and we hold that the said delay has prejudiced the detenu in disposal of his representation. On this ground, we quash the impugned order of detention.

4. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in connection with some other case or cause.

Sd/-
Asst. Registrar.

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Sub Asst. Registrar.

gms

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To
1.The Secretary, State of Tamil Nadu,
Prohibition and Excise Department,
Fort St. George, Chennai-9.

2.The District Magistrate and District Collector,
Krishnagiri District, Krishnagiri.

3. The Superintendent, Central Prison, Salem.
(In duplicate for communication to detenu)

4. The Joint Secretary to Government, Public (Law and Order)
Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

+ 1 CC To Mr. P.M.Duraisamy, Advocate SR NO.47300

HCP. No.761 of 2006

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